

# Exhibit D

April 18, 2016

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

BRANDON LESTER

§  
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§

vs.

CIVIL ACTION NO.  
7:15-CV-665

SMC TRANSPORT, LLC AND ISRAEL  
MARTINEZ, JR. AND SALINAS  
EXPRESS, LLC

ORAL AND VIDEOTAPED DEPOSITION  
ISRAEL MARTINEZ, JR.  
April 18, 2016

ORAL AND VIDEOTAPED DEPOSITION OF ISRAEL MARTINEZ, JR., produced as a witness at the instance of the Plaintiff and duly sworn, was taken in the above-styled and numbered cause on April 18, 2016, from 12:41 p.m. to 5:19 p.m., before Annette E. Escobar, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of La Posada Hotel, La Posada Hotel, 1000 Zaragoza Street Laredo, The Blue Bonnet Conference Room, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

**COPY**

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1 P-R-O-C-E-E-D-I-N-G-S

2 Whereupon,

3 12:41 P.M.

4 THE VIDEOGRAPHER: We are on the record.

5 Today's date is April 18th of the year 2016. The time is  
6 approximately 12:41 at noon, and you may proceed with the  
7 deposition, please.

8 ISRAEL MARTINEZ, JR.,

9 having been first duly sworn, testified as follows:

10 EXAMINATION

11 BY MS. WHITE:

12 Q Mr. Martinez, my name is Johneal White and I  
13 represent Brandon Lester in this lawsuit that we're here  
14 about today.

15 Can you state your full name for the  
16 record.

17 A Israel Martinez, Jr.

18 Q And what's your current address?

19 A 1109 Juarez.

20 Q And you live there with your wife Lilly?

21 A Yes, ma'am.

22 Q And that's in Zapata?

23 A Yes, ma'am.

24 Q Does anyone else live there with you?

25 A No, ma'am.

1 Q Have you lived in Zapata your entire life?

2 A Yes, ma'am.

3 Q And are you currently employed?

4 A Right now I am.

5 Q Where do you work?

6 A Contreras Trucking.

7 Q C-O-N-T-R --

8 A E-A-S-N-C-E-N, (sic.) I think.

9 MR. DUNN: I'm sorry. Spell that.

10 THE WITNESS: C-O-N-T-R-E-N-C-E (sic.)

11 Q (By Ms. White) Where are they located?

12 A The company is located here in Laredo. The  
13 truck is parked down in Zapata.

14 Q And you are driving a truck for them?

15 A Yes, ma'am.

16 Q And is it a tractor trailer type rig?

17 A It is, but it's just like an belly dump. It's a  
18 whole different thing as a, the kind that I was using for  
19 them. I work for the, we're working on the highway right  
20 now, working on the highway replacing the median of the  
21 highway.

22 Q So it's just local driving?

23 A Yes, ma'am, it is.

24 Q Is it the type of vehicle you attach a trailer  
25 to?

1 A Yes, ma'am.

2 Q Do you keep that at your house?

3 A No, ma'am.

4 Q Where do you keep that?

5 A It's parked at -- it is at the Villarreal  
6 location down in Zapata. It's just, like, a little yard  
7 that we parked the truck at.

8 Q How long have you been working with Contreras?

9 A I just barely start.

10 Q And do you know what month you started in?

11 A I would say like -- I've been with them almost,  
12 like, two weeks.

13 Q Do you have a commercial license?

14 A Yes, ma'am, I do.

15 Q When did you first get your commercial driver's  
16 license?

17 A If I'm not mistaken, I think it would be 2001.

18 Q Did you go to any sort of trucking school?

19 A No, ma'am.

20 Q Did you have any sort of experience driving a  
21 truck before you applied for the license?

22 A Yes, ma'am, I did.

23 Q Tell me about your employment history since you  
24 got a commercial driver's license.

25 A When I started off, I started at Met-Loz; I used

1 to be like a lease worker. That's where they showed me  
2 how to drive the trailer -- the tractor. That's where I  
3 got my license at Met-Loz Lease Service.

4 Q Where is that?

5 A That's down at Zapata.

6 Q And it's Med-Loz?

7 A M-E-D-L-O-Z.

8 Q How long did you work there?

9 A Eleven years.

10 Q And what did they do?

11 A Oilfield.

12 Q So you would drive a truck hauling oil?

13 A I would try to help them out with the hauling  
14 like tractors, equipment to the location, but it's all  
15 going to be local.

16 Q What caused you to leave that job?

17 A It just went slow.

18 Q And did you have another job after that?

19 A Yes, ma'am, I did. I worked for Key Energy.

20 That's a vacuum service.

21 Q K-E-Y?

22 A Yes, ma'am.

23 Q What did you do there?

24 A We would pick like water waste from the wells.

25 Q And did you drive for them?

1 A Yes, ma'am, I did.

2 Q Where did you work after that?

3 A After that I went for the gauging service.

4 MR. FRANKL: I'm sorry. What service?

5 THE WITNESS: Gauging.

6 MR. FRANKL: Okay.

7 A I started out with my father-in-law. He used to  
8 have a company of gauging. He's the one showed me how to  
9 gauge, how to work in that kind of job.

10 Q And what did you do?

11 A On that one, just check the wells, pressures and  
12 the static and everything.

13 Q So did that involve driving at all?

14 A No, ma'am, it didn't.

15 Q What caused you to leave the Key Energy job?

16 A I got laid off for the same thing, just went  
17 slow.

18 Q And do you know what time period you worked  
19 there?

20 A To be exact I don't, ma'am.

21 Q And the gauging service, did that company have a  
22 name?

23 A Moncivais Gauging.

24 MR. FRANKL: Could you spell that?

25 THE WITNESS: M-O-N-C-I-V-A-I-S.

1 Q (By Ms. White) How long did you work there?

2 A I worked for them almost like three years.

3 Q What caused you to leave that job?

4 A I got another job on the, on trucking with  
5 Movac.

6 Q How do you spell that?

7 A M-O, M-O-V-A-C. It would be the same thing as  
8 Key Energy, just hauling wastewater.

9 Q Do you know how long you worked there?

10 A For -- I worked for them almost like, I would  
11 say almost three years.

12 Q What caused you to leave that job?

13 A Same thing, just laid off, slow on job.

14 Q Where did you work after that?

15 A After that I went back to gauging with Sundance.

16 Q How long did you work there?

17 A A year and a half.

18 Q What caused you to leave that job?

19 A What happened, they sold the wells to another  
20 company that was Linn Energy and I got a contract with  
21 C&D -- C&D.

22 Q What caused you to leave that job?

23 A That job what happened, they just had to let us  
24 go because they was trying to sell more wells and it was  
25 just like, there was not enough work for us.

1 Q And is that when you started working for Salinas  
2 Express?

3 A No, I went for another job, La-Lomas. L-A --  
4 L-A-M-O-S.

5 Q What did you do there?

6 A Caliche, hauling caliche on the belly dumps.

7 MR. FRANKL: I'm sorry, hauling what?

8 A Caliche. It will be like gravel for the  
9 location when they're building up the location.

10 Q (By Ms. White) And that was a driving job?

11 A Yes, ma'am, it was.

12 Q How long did you work there?

13 A For them I worked like eight months.

14 Q What caused you to leave that job?

15 A I got a job with Salinas. That's when I got my  
16 job with Salinas.

17 MR. FRANKL: Did you say a month or eight  
18 months?

19 THE WITNESS: Eight months.

20 Q And who initially asked you to drive a truck for  
21 Salinas Express?

22 A Rudy.

23 Q Rudy Salinas?

24 A Yes, ma'am.

25 Q Is he your cousin?

1 A Yes, ma'am; second, I would say.

2 Q Did you guys grow up together in Zapata?

3 A Yes, ma'am.

4 Q Tell me about the conversation you had with Rudy  
5 when he asked you to come work for him?

6 A He needed more drivers and he asked me, like, if  
7 I was willing to work for them. I didn't want to because  
8 I didn't have that much experience working on the oil,  
9 over the road, but he was going to show me for a couple of  
10 weeks.

11 I guess when I started up he went with me  
12 like two times on a trip.

13 Q Before you went to work with Salinas Express had  
14 you ever driven over the road?

15 A No, ma'am.

16 Q By over the road, do you understand that to mean  
17 intrastate long haul trucking?

18 A Yes, ma'am.

19 Q How often did you do jobs for Salinas Express?

20 A Couple of weeks. I would say after when I got  
21 in with them, I was able to like couple -- to be honest, I  
22 don't know how many trips a day I made but I made several  
23 trips.

24 Q When did you make your first trip for Salinas  
25 Express?

1                   MR. HEARN: Can I just clarify that? Do  
2 you mean driving on his own or...

3                   MS. WHITE: No.

4                   MR. HEARN: Do you mean to include the time  
5 he went with Rudy?

6                   Q (By Ms. White) Yes, the time you went, the first  
7 time you ever went with Salinas Express.

8                   A The application that I made when I made my  
9 physical and everything was in July. I think that was  
10 before that. I think it was like in June. I'm not sure,  
11 to be honest. I can't say exact date because --

12                  Q So the first -- some time maybe in June is when  
13 you did your first trip?

14                  A Yes, ma'am.

15                  Q And Rudy went with you?

16                  A Yes, ma'am.

17                  Q Did you drive?

18                  A Yes, ma'am.

19                  Q Where did you guys go?

20                  A Mostly the trip that we were making was down to  
21 Winchester, Virginia.

22                  Q And you believe that was before you had your  
23 physical and drug test?

24                  A I did -- we made that trip. Then after that  
25 that's when I made my application with them. We had to

1 set up like appointment for my physical and I think we  
2 made one more trip. That's when I went over to make my  
3 physical. Excuse me, but I went him, he went with me that  
4 time too.

5 Q And was the second trip also to Winchester that  
6 you made with Rudy?

7 A Yeah, I think so that was the second trip went  
8 to Winchester and after that we took off from Winchester.  
9 We took off to Colorado, I think, but that was the second  
10 one.

11 Q The first trip to Winchester, do you know what  
12 you were hauling?

13 A Yes, ma'am. Home Depot, cabinet for the sink  
14 for restrooms. It was just cabinets.

15 Q And is that also what you were hauling on the  
16 second trip to Winchester?

17 A Yes, ma'am, it was the same thing.

18 Q From Winchester you guys went across to  
19 Colorado?

20 A Yes, ma'am.

21 Q Do you know what you were hauling then?

22 A No, ma'am, I sure don't. I don't remember, to  
23 be honest.

24 Q And so after those two trips with Rudy, you  
25 started doing trips by yourself?

1 A Yes, ma'am, I did.

2 Q And tell me all the places you can remember that  
3 you drove a Salinas Express tractor?

4 A On the first trip that I made, we made, there  
5 were a couple of us, they didn't send me by myself. There  
6 were couple of trucks. One was with Eddie Lozano and  
7 when -- well, we were in different trucks, right, but we  
8 were going to the same place.

9 Q So you guys would drive together but in separate  
10 --

11 A In separate trucks, yes, ma'am. That was my  
12 third trip I made over to Winchester. After that we keep  
13 on going to Winchester. That was mostly the trip that we  
14 were making, down to Winchester, and we would go to, they  
15 would send us to, after that they would send us to Ohio,  
16 Michigan, New Jersey. What was the other state?

17 Tennessee. I think that would be it. I'm not sure.

18 Q Were you almost always driving sort of in tandem  
19 with another Salinas Express truck?

20 A No. You're saying like with somebody else with  
21 me, another truck in front of me, or what?

22 Q Yeah.

23 A No. There were some times, when there were like  
24 two trips going to the same place they would send two  
25 trucks at the same time, but it was just like very rare.

1 Q Did you always drive the same truck?

2 A No, ma'am.

3 Q Do you know how it was determined what truck you  
4 would drive?

5 A They would tell me, Rudy would tell me.

6 Q Would Rudy also tell you what your destination  
7 was?

8 A Yes, ma'am.

9 Q Did you keep a log for those trips?

10 A Yes, ma'am, we did, but we usually left it at  
11 the truck. It would usually be at the truck. When we end  
12 our trip, we left all the paperwork and lock up everything  
13 in the same place at the truck, the truck that we were  
14 using.

15 Q Do you have a copy of a log for the trip for the  
16 accident in October?

17 A No, ma'am, I left it in the truck.

18 Q In which truck?

19 A The one that I left in the truck was the one the  
20 accident on the SMC, I left those logbooks and my -- the  
21 ticket that I received that time.

22 Q With the SMC tractor?

23 A Yes, ma'am.

24 Q Do you know who has them?

25 A No, ma'am, I sure don't.

1 Q No one has told you that they have them?

2 A No, ma'am.

3 Q So when you would drive for Salinas Express who  
4 owned the truck that you would drive for them?

5 A It was like, to be honest, I don't know because  
6 that company, the one that runs, Rudy and one of his  
7 sisters, I don't know who would be the owner for that  
8 truck. But I know it was them because Rudy was in charge  
9 for giving the paperwork and everything.

10 Q So Salinas Express was run by Rudy?

11 A Yes, ma'am.

12 Q And also one of his sisters?

13 A Yes, ma'am.

14 Q What's her name?

15 A Sylvia, I don't know, to be honest.

16 Q Sylvia Ramirez maybe?

17 A I think, yes, ma'am. I usually talk more with  
18 Rudy than with her.

19 Q Did Rudy call you when you were on the road,  
20 sort of check in with you?

21 A Yes, ma'am.

22 Q Was there any other system inside the truck that  
23 would sort of keep track of where you were at?

24 A GPS, that was the only thing we had.

25 Q How would you pay for fuel when you were driving

1 a Salinas Express truck?

2 A The first trip they would give us cash and when  
3 we arrived for the destination they would send us like a  
4 picture on our phone and they would send us like a T  
5 check. It would be like several numbers on the phone that  
6 we can be able to cash it in like, Flying J, Pilot or  
7 Loves.

8 Q And would you consistently use one truck stop or  
9 did you use different ones?

10 A It depends. We usually used Loves but in --  
11 there were some part that we couldn't able to get to a  
12 Love and we just go ahead and use Flying J or Pilot, but  
13 it was just like we usually with Loves.

14 Q So you would get like a code on your phone and  
15 then you just show that to the people at the truck stop?

16 A Yes, ma'am, correct.

17 Q It's sort of an account that pays for the gas?

18 A Yes, ma'am.

19 Q Who would determine the route that you would  
20 take?

21 A No one.

22 Q It's just sort of up to you?

23 A We just follow the GPS.

24 Q And is the GPS installed on the truck or is that  
25 something that you had personally?

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1           A     No, it was already installed on the truck, they  
2 bought it.

3 Q Do you know how many tractors Salinas Express  
4 owns?

5 MR. HEARN: To clarify, owns now?

6 Q (By Ms. White) Currently.

7           A     Okay. Because I really don't know. Right now  
8 each, let's say brothers and sisters, they got one. I  
9 don't know which one belongs which one.

10 Q They each have one?

11 A Yes, ma'am, and they all like Salinas Express.

12 MR. DUNN: I'm sorry, they're all what?

13 THE WITNESS: They're on the same company,  
14 they all have the same label. So that's why we don't know  
15 which one, which one. The only time that I find out is  
16 when I use Roy's because he was the one paying me when I  
17 had to use his truck. But after that, I don't know how  
18 many trucks they got or what.

19 Q (By Ms. White) Do you know how many trucks there  
20 are currently that have Salinas Express written on the  
21 side?

22 A There's five that Salinas Express property and  
23 they're two that they lease with Salinas Express. About  
24 seven trucks in total, more or less.

25 MR. FRANKL: I'm sorry, you said there's

1 five with what?

2 THE WITNESS: They're -- there's Salinas  
3 property, let's say they own five trucks from all the  
4 brothers, and there are two trucks that got leased with  
5 somebody, somebody else truck.

6 MR. FRANKL: But it says Salinas Express?

7 THE WITNESS: It says Salinas Express, yes,  
8 sir.

9 Q (By Ms. White) When did you stop working for  
10 them?

11 A I stopped working with them, maybe it was, I  
12 would say like three months ago.

13 Q We're here in April, so maybe in January?

14 A Yeah, I think so it was in January, something  
15 like that.

16 Q What caused you to stop working for Salinas  
17 Express?

18 A What happened is because I was checking because  
19 it was -- I just went over and asked them that I need my  
20 logbooks because they needed me for another trip and I was  
21 looking for my book. And when I went -- when I called  
22 them and asked them, they told me they didn't know where  
23 it was at. That's when I just like, I didn't -- I just  
24 back up. I didn't want to go.

25 Q You felt uncomfortable working there?

1           A     Yes, because I was looking for my own stuff and  
2     I couldn't find my papers.

3           Q     So from June 2015 until you stopped working  
4     there in about January 2016, did they also have seven  
5     trucks during that time that they either owned or leased?

6           A     I think they only had, because they just barely  
7     bought like two of them. I think they had five.

8           Q     Okay. During the time you worked there they  
9     might have acquired two additional trucks?

10          A     Yes, ma'am. I think. I'm not sure.

11          Q     When you were given a job to do were you told  
12     like how long you had to accomplish, like when your  
13     delivery date was?

14          A     Yes, ma'am.

15          Q     Was there any rule about passengers in the truck  
16     with you?

17          A     They never told me nothing about that.

18          Q     And just to clarify, you did not own any of the  
19     tractors used by Salinas Express?

20          A     No, I didn't.

21          Q     Have you ever owned your own tractor?

22          A     No, ma'am, I didn't, I don't.

23          Q     You were paid by Salinas Express in cash?

24          A     Yes, ma'am, I was.

25          Q     And would your wife Lilly pick that up for you

1 most of the time?

2 A She did like two or three times because I wasn't  
3 here and she, let's say she needed money, and she would  
4 ask me, I would just tell her to go pick them up.

5 Q And that would be at the Salinas Express yard?

6 A Yes, ma'am.

7 Q Mostly from Rudy?

8 A Yes, ma'am.

9 Q How was it determined what your rate of pay  
10 would be?

11 A The pay that she would get, it only would be  
12 only the trip I took, the first trip that I made. That  
13 would be the only, the only pay that she would get.

14 Q But who, who set the rate? Like determined  
15 you're going to get paid X for this trip?

16 A Oh, Rudy.

17 Q Rudy.

18 A Yes, ma'am.

19 Q And was it based upon a certain rate or the  
20 miles you traveled or --

21 A It goes by the mile.

22 Q And do you know what that rate was?

23 A No, ma'am, I sure don't.

24 Q Did you, you did not negotiate the rate with him  
25 at all?

1 A You're saying like the mile, by the mileage?

2 Q Yeah.

3 A Oh, yeah, it was 40 cents a mile.

4 Q Forty cents a mile?

5 A I thought you were talking about the whole  
6 amounts.

7 Q So he paid you mileage?

8 A Yes, ma'am.

9 Q And would he pay you for extra things on top of  
10 the mileage?

11 A No, ma'am.

12 Q Okay. And is that, is that something he just  
13 sort of dictated to you, said, I'll pay you 40 cents a  
14 mile?

15 A Yeah.

16 Q Were there any expenses for the tractor that you  
17 had to pay for yourself?

18 A No, ma'am.

19 Q And did you ever use any of the Salinas Express  
20 tractors to haul a load for a different company?

21 A No, ma'am.

22 Q During the time you worked for Salinas Express  
23 did you have any other jobs?

24 A No, ma'am.

25 Q And fair to say that Salinas Express is in the

1 business of hauling, you know, carrying loads?

2 A Uh-huh.

3 Q They're a truck driving company?

4 A Yeah, it is a truck driving company.

5 Q Do they do anything else?

6 A No, ma'am.

7 Q Did they say why they were paying you in cash?

8 A No, ma'am.

9 Q Do you know how they paid other drivers?

10 A I cannot say that I saw it but I just saw one,  
11 we were two of us that were paid in cash. We got there at  
12 the same time, that's why.

13 Q And who would that be?

14 A The other driver was Richer, I think. It was  
15 Richer Vela.

16 Q How do you spell that?

17 A Richer is R-I-C-H-E-R. Vela is V-E-L-A.

18 Q Do you know where he lives?

19 A Oh, he lives in San Antonio.

20 Q And did you ever drive like with him, two trucks  
21 going to same place?

22 A With that same guy?

23 Q Yeah.

24 A Yeah, we did.

25 Q How many times did you do that with him?

1 A Just once.

2 Q Do you know where you guys went?

3 A Yeah, Winchester.

4 Q Who, to your knowledge, ever drove -- who would  
5 regularly drive a Salinas Express tractor?

6 MR. HEARN: Object to form.

7 Q (By Ms. White) Do you know who were regular  
8 drivers for Salinas Express?

9 A The drivers?

10 Q Yeah.

11 A Yes, ma'am, I do.

12 Q Who is that?

13 A Used to be Leo Garza. L-E-O Garza. The other  
14 one was that same guy Richer.

15 MR. FRANKL: Other -- I'm sorry, the other  
16 one was?

17 A Richer Vela. Richer. The other one was Martin,  
18 Martin.

19 Q Do you know his last name?

20 A Gavilan. Kind of difficult to spell that name,  
21 Gavilan.

22 Q Gavilan?

23 MS. WHITE: G-A-V-I-L-A-N.

24 Q (By Ms. White) Anyone else who you know who  
25 regularly drove for Salinas?

1 A Eddie Lozano. And it was Roy or his brother.

2 Q Roy Salinas?

3 A Roy Salinas, Rudy and --

4 Q Rudy Salinas?

5 A Yeah, and I don't know, they got somebody else  
6 right now.

7 Q What about Ruben Salinas Jr.?

8 A He was like in and out. He had his own truck  
9 too. Oh, there's another Ruben.

10 Q Ruben Sr. and Jr.?

11 A No, there's another one that worked with him  
12 too, but he works in the Valley. I don't know his last  
13 name, pero, he's working for them too.

14 Q Ruben Salinas Jr. has his own tractor?

15 A Yes, ma'am.

16 Q And it says Salinas?

17 A Salinas Express. Salinas.

18 Q Any other drivers you can think of?

19 A I think those are all.

20 Q Tell me about what you were -- what you know  
21 about the requirements to keep a logbook?

22 A What do you mean?

23 Q Well, you are required to keep a logbook?

24 A Yes, ma'am.

25 Q What are you required to put in it?

1           A     Let's say the time you have to drive and all  
2     that?

3                       Okay. Like you need to drive eight hours,  
4     30-minute break. The total of driving, it would be like  
5     eleven hours. Then it would be like ten hours sleep.

6           Q     And is that something you filled out for every  
7     trip you took for Salinas Express?

8           A     Yes, ma'am. Yes, ma'am, I did.

9           Q     But would you always leave it with the truck?

10          A     Yes, ma'am.

11          Q     Did you ever have a co-driver that you would  
12     drive two in the same truck?

13          A     No, ma'am.

14          Q     And what kind of paperwork were you given when  
15     you would leave for a trip?

16          A     Well, the first time, that first trip that we  
17     made, they would give you like direction paper, they would  
18     fax over from the company we were going to pick up. It  
19     would tell you the exact, the address plus the weight that  
20     it was going to be.

21          Q     And the weight?

22          A     Yes, ma'am, and where it was going to be  
23     delivered at.

24          Q     And did you just pick like the trailer somewhere  
25     or would you have to load it?

1 A No, we had to load it up.

2 Q And were you responsible for loading?

3 A No, no, I wasn't. We would go to straight out  
4 like for some storage dock that we would back up and they  
5 would deliver us and then we just go ahead and take off.

6 Q And so Salinas Express, did they use their own  
7 trailers or --

8 A No, ma'am.

9 Q It was the trailers of the --

10 A Warner.

11 Q Warner?

12 A Warner; yes, ma'am.

13 Q And so then when you -- did you have to keep  
14 receipts or anything like that for expenses you incurred?

15 A Yes, ma'am; we did.

16 Q What kind of receipts? Gas?

17 A Yes, ma'am, the gas receipts. And plus, let's  
18 say we had to buy some fuses for the truck or anything  
19 that we had to use for the truck, we had to save those  
20 tickets too. That way we can have, they see -- won't  
21 deduct that money from our check.

22 Q And so you would give them to Rudy at the end?

23 A Yes, ma'am.

24 Q Did you ever stay at hotels or just stay in the  
25 truck?

1 A In the truck.

2 Q The, how many times had you driven for Salinas  
3 Express before the accident in October of 2015?

4 A Couple of trips.

5 Q Do you remember where those trips were?

6 A These, we were using to use the same routes.

7 Down to Winchester, Tennessee, Oklahoma -- not Oklahoma.

8 Like I tell you, New Jersey. There were a couple of  
9 trips.

10 Q So you think you went to Winchester, Tennessee  
11 and New Jersey at least before the accident in  
12 October 2015?

13 A Yes, ma'am.

14 Q Had you ever had any accidents before this one  
15 in October 2015 involving a commercial truck?

16 MR. HEARN: Objection. You can answer.

17 A Yeah, I had one but it was just like several  
18 years back. It happened down in Zapata. What happened  
19 that time, I was making my turn down -- I was making my  
20 turn and there was this vehicle behind me, he didn't saw  
21 me, that I was making my turn. He came over and hit me  
22 from behind.

23 Q Do you know when that was?

24 A No, ma'am; I sure don't. It was just years  
25 back.

1 Q Do you know who you were working for at the  
2 time?

3 A Lopez. I was helping them out. I wasn't  
4 working for them.

5 Q Had your -- before October 2015 had your  
6 driver's license ever been suspended?

7 A No, ma'am. Correction. Yeah, it was suspended  
8 from Virginia.

9 Q From the accident?

10 A Yeah, from the accident; yes, ma'am.

11 Q Have you gotten it back?

12 A They sent me a letter that it was going to be  
13 suspended for a whole year.

14 Q Okay.

15 A But it was just going to be there in Virginia.

16 Q Any other times your license has been suspended  
17 besides that?

18 A Yes, ma'am. That one in Zapata suspended, they  
19 had suspended my license there in Zapata. That was like,  
20 I would say, like two, three years ago.

21 Q And what was that for?

22 A Tickets, personal tickets.

23 Q Speeding tickets?

24 A Yes, ma'am.

25 Q How many did you have?

1           A     I don't know to be honest because several of  
2 those were for some other company that didn't pay for the,  
3 I was going -- I was getting paid -- I got ticket for some  
4 company La Lomas, they didn't pay for those tickets. I  
5 had to pay for them too.

6 Q At some point you filled out a, an application  
7 to work for Salinas Express?

8           A       Yes, ma'am, I did.

9 O Do you know when you filled that out?

10 A I think it was in July.

11 Q of 2015?

12 A Yes, ma'am.

13 (Exhibit marked for identification as  
14 Deposition Exhibit Number 2.)

15 MR. HEARN: That's for you to look at.

16 THE WITNESS: Okay.

17 MR. HEARN: That's fine. I got one too.

18 Q (By Ms. White) If you want to take a look at  
19 what's been marked as Exhibit 2?

20 MR. HEARN: You want him to review the  
21 entire thing?

22 MS. WHITE: Yes, please.

23 MR. HEARN: Go ahead and look at every  
24 piece of paper there and then she'll ask you questions  
25 about it.

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1                   MR. DUNN: What was Exhibit 1 to this  
2 deposition?

3                   MS. WHITE: I've said, we'd do them  
4 cumulatively.

5                   MR. DUNN: For all of them?

6                   MS. WHITE: Yes. Is that okay or is that  
7 not okay?

8                   MR. DUNN: Whatever you guys want to do is  
9 fine, just make sure so it's clear for identification  
10 purposes. I didn't know -- there was no one for this  
11 deposition.

12                  MS. WHITE: Yeah.

13                  Q     (By Ms. White) Have you had a chance to look at  
14 it --

15                  A     Yes, ma'am, I did.

16                  Q     -- what has been marked as Exhibit 2 to the  
17 deposition. Is that an application for employment that  
18 you filled out for Salinas Express?

19                  A     Yes, ma'am, it is.

20                  Q     When did you fill that out?

21                  A     That was in July.

22                  Q     Of 2015?

23                  A     Yes, ma'am.

24                  Q     And is there a reason it's not dated?

25                  MR. HEARN: Object to form. If you know

1 the answer, you can answer.

2 A I don't know, ma'am, to be honest. I usually  
3 forget to put a date on it because they're some company  
4 they will tell you they will do on their self. They would  
5 date it, let's say you get hired one day, but they'll put  
6 a date tomorrow or the day before. I guess I just forgot  
7 to put it on.

8 Q So no one told you not to date it?

9 A Yes, ma'am.

10 Q Did someone tell you not to date it?

11 A No, ma'am, nobody told me.

12 Q Okay. And everything on here is in your  
13 handwriting?

14 A Yes, ma'am, it is.

15 MR. FRANKL: I'm going to object to the  
16 form.

17 Q (By Ms. White) Everything on the application  
18 that's handwritten is your handwriting?

19 A Yes, ma'am, it is.

20 Q Except the last page is a drug test?

21 A Yes, ma'am.

22 Q And is that the results from the drug test that  
23 you went for?

24 A Yes, ma'am.

25 Q When did you go for the drug test?

1 A July 27, 2015.

2 MR. HEARN: Can I just clarify, I'm sorry?

3 MS. WHITE: Sure.

4 MR. HEARN: When you say on the  
5 application, if we're looking at page one, are you talking  
6 about the entire document or are you talking about just  
7 the top part that says, to be signed by applicant.  
8 Because there's a section that says for company use and  
9 it, I'm not clear whether your question is asking about  
10 the entire page or just --

11 MS. WHITE: Okay.

12 MR. HEARN: -- a certain part of the page.

13 Q (By Ms. White) In -- fair enough.

14 On page one where there's a signature, it  
15 looks like Israel Martinez Jr. Is that your signature?

16 A Yes, ma'am, it is.

17 Q And up top where it says applicant name, is  
18 that -- did you fill that in?

19 A Yes, ma'am, I did.

20 Q On the first page where it says for company use  
21 and the date is 1-22-16, did you fill that in?

22 A No, ma'am, I didn't.

23 Q Do you know who did?

24 A No, ma'am.

25 Q On the second page, is everything on the second

1 page your handwriting?

2 A Yes, ma'am, it is.

3 Q Even at the bottom where it says employer?

4 A Yes, ma'am.

5 Q And the third page that starts with company  
6 name, is everything on that page your handwriting?

7 A Yes, ma'am, it is.

8 Q And the fourth page that says request for check  
9 of driving record, is everything on that page your  
10 handwriting?

11 A Yes, ma'am.

12 Q And the next page that says driver statement of  
13 on-duty hours, is everything on that page your  
14 handwriting?

15 A Yes, ma'am, it is.

16 Q And the next page that says motor vehicle  
17 driver's certification of violations and your review of  
18 driving record, is everything on that page your  
19 handwriting?

20 A Yes, ma'am.

21 Q And the next page it says motor vehicle driver's  
22 certification of compliance with driver's license  
23 requirements. Is everything that's handwritten on that  
24 page your writing?

25 A Yes, ma'am.

1 Q And the next page, which is the employment  
2 eligibility verification I9 form, is everything on that  
3 page your writing?

4 A Yes, ma'am, it is.

5 Q And the next page which is a continuance of that  
6 form is everything on there your, in your handwriting?

7 A Uh-huh. Yes, ma'am.

8 Q And the final page which says previous  
9 pre-employment -- previous pre-employment employee alcohol  
10 and drug test statement, is that your handwriting on that  
11 page?

12 A Yes, ma'am.

13 Q And then the final page is the drug test?

14 A Uh-huh.

15 Q Where it says completed by donor, is that your  
16 handwriting?

17 A Yes, ma'am, it is.

18 Q In that section?

19 A Uh-huh.

20 Q But you had done -- had you done the two runs  
21 Rudy before you filled that out?

22 A Yes, ma'am.

23 Q Do you have a Facebook page?

24 A Yes, ma'am, I do.

25 Q You have two Facebook pages?

1 A Yes, ma'am.

2 Q You have one under the name Israel Martinez and  
3 one under the Israel Lilly Martinez?

4 A Yes, ma'am.

5 Q Do you still use both of them?

6 A No ma'am.

7 Q Which one do you use?

8 A The one that says Israel and Lilly Martinez.

9 Q When did you stop using the one that just says  
10 Israel Martinez?

11 A A couple of months back. What happened, I just  
12 lost my password, I couldn't be able to log in anymore. I  
13 couldn't be able to reset it.

14 Q I'm going to show you what we'll collectively  
15 mark as Exhibit 3, but I only have one copy of it.

16 (Exhibit marked for identification as  
17 Deposition Exhibit Number 3.)

18 MR. DUNN: How many pages is that?

19 MS. WHITE: It is 61.

20 THE VIDEOGRAPHER: The time is 1:33 in the  
21 afternoon, and we are off the record.

22 THE VIDEOGRAPHER: We are back on the  
23 record. The time is 1:44 in the afternoon, and you may  
24 continue with the deposition, please.

25 Q (By Ms. White) We are back.

1                   Mr. Martinez, have you had a chance to look  
2       at what has been 61 pages that have been marked as  
3       Exhibit 3 to the depositions?

4                   A     Yes, ma'am.

5                   Q     And are those posts that have been made to your  
6       Facebook page?

7                   A     Yes, ma'am.

8                   Q     And are those posts that you have either made or  
9       consented to their appearance on your Facebook feed?

10                  A     Those were pictures that they were sent over to  
11      my Facebook.

12                  Q     Okay. Did you make them? Did you make any of  
13      them?

14                  A     There were some that I took some pictures,  
15      especially the ones on the rest area, and there were some  
16      that was taken by my wife.

17                  Q     By Lilly?

18                  A     By Lilly, yes, ma'am.

19                  Q     And she tagged you, I think is the Facebook  
20      term, in those photographs?

21                  A     Yes, ma'am.

22                  Q     And you did not untag yourself in any of them?

23                  A     No, ma'am.

24                  Q     And so you consented to their appearance on your  
25      Facebook?

1 A Yes, ma'am.

2 Q And do they show some of the locations that you  
3 guys stopped on making trips for Salinas Express?

4 A Yes, ma'am.

5 Q You'd made stops like in Marion, Virginia?

6 A Marion, Louisiana, Mississippi. There were  
7 several stops, especially in the rest area.

8 Q Alabama, I think?

9 A Yeah, there were some.

10 Q There is one photograph in there of a tractor  
11 trailer that had been in a wreck and it says near  
12 Buchanan. Do you know what picture I'm talking about?

13 A No, ma'am, I sure don't.

14 Q If you can find that one.

15 MR. HEARN: Do you want to ask him the  
16 question while you're looking?

17 Q (By Ms. White) I just want to know, did you take  
18 that photograph?

19 A It was where there are two trucks?

20 MR. HEARN: The truck on the side of the  
21 road and trailer is all caved in.

22 A Oh, that one was taken by Lilly. That was when  
23 we were heading to Virginia. I think it happened in  
24 Tennessee, in Knoxville, Tennessee. Yeah, this one?

25 Q Yeah.

1 A Yeah, that one was taken by Lilly.

2 Q Can I see?

3 A Here you go.

4 Q And it's the page, it's August 20th, 2015  
5 photograph and there's a red tractor with a white trailer  
6 off the side of the road, and you think that was taken in  
7 Tennessee?

8 A I think it was Tennessee, yeah. We were heading  
9 to Virginia.

10 Q Okay. And do you know, is there a reason why it  
11 says Buchanan? Is there a Buchanan in Tennessee?

12 A I have no idea, to be honest.

13 Q That accident didn't happen near where this  
14 accident happened that we're here about today, did it?

15 A No, ma'am.

16 Q Do you wear contact lenses or glasses at all?

17 A No, ma'am.

18 Q Ever had any sort of corrective eye surgery?

19 A No, ma'am.

20 Q Do you know what your vision is?

21 A Last time I took, 20/20.

22 Q Any hearing impairment?

23 A No, ma'am.

24 Q Any major medical issues that require daily  
25 medication?

1 A No, ma'am.

2 Q Was there a requirement that you inspect the  
3 vehicle, the tractor that you're driving, everyday before  
4 driving it?

5 A Yes, ma'am, pre-trip.

6 Q What would that consist of?

7 A We would check like for leaks, for flats,  
8 flashers, lights, horns. It was just like pre-trip  
9 inspection for the truck before taking off.

10 Q And did you have to record that inspection  
11 somewhere?

12 A No, ma'am.

13 Q Do you know who was responsible for the  
14 maintenance on the Salinas Express tractors?

15 A They would do it on their own.

16 Q At the Salinas Express yard?

17 A Yes, ma'am.

18 Q Was there one particular person who had the most  
19 knowledge about?

20 A Well, it was Ruben and they usually work. They  
21 were three brothers, Roy, Ruben and Rudy. Unless there  
22 was something major, they would send it over to the  
23 Valley.

24 Q Where would they send it?

25 A Down to the Valley, to McAllen.

1 Q Was there a particular person that they used  
2 there?

3 A Yeah, but I don't know his name.

4 Q So three brothers, Roy, Rudy and Ruben and you  
5 think Ruben was the most knowledgeable about mechanical  
6 issues with the truck?

7 A They both, they know how to fix, work on the  
8 trucks.

9 Q Did you ever before October 2015 ever have an  
10 issue, a mechanical issue with one of the Salinas Express  
11 trucks you were driving?

12 A No, ma'am.

13 Q Did you -- with any of the Salinas Express  
14 trucks, have you ever had any sort of report of any safety  
15 violation? Like you have to periodically go through  
16 inspection stations?

17 A Yes, ma'am, I do.

18 Q And was there ever any sort of violations for  
19 any of the trucks that you were driving?

20 A No, ma'am.

21 Q Did you -- were you required to take any sort of  
22 official test for Salinas Express before driving a truck  
23 for them?

24 A A road trip.

25 Q Just the trip you did?

1 A Just the road trip.

2 Q With Rudy?

3 A Yes, ma'am.

4 Q Did he ever give you any sort of employee  
5 manual?

6 A No.

7 Q Did they explain to you any sort of policies or  
8 procedures that the company had?

9 A I don't remember, to be honest.

10 Q No one had ever had any conversation of this is  
11 the way we do things?

12 A Yeah, Rudy -- when I barely started when I was  
13 going take off by myself, he did. It was all about the  
14 trip and just to be on time, try not to be like in a rush,  
15 take my time, and...

16 Q Anything else you can remember that you guys  
17 talked about?

18 A No, ma'am.

19 Q Do you remember the accident that we're here  
20 about today?

21 A Yes, ma'am.

22 Q And it happened near a rest area in Virginia?

23 A Uh-huh (Nods head.)

24 Q Yes?

25 A Yes, ma'am.

1 Q Do you know about what mile marker it's at?

2 A No.

3 Q How many trips do you think you had taken up and  
4 down interstate?

5 A Couple of them. Yeah, there were several. Like  
6 you usually make a, like a whole week to go back and  
7 forth. I would say it was about, I don't know. I can't  
8 say how many, but there were several trips.

9 Q And you would leave from Zapata to go  
10 Winchester?

11 A From Weslaco. We would take off from Zapata,  
12 but the loading point that we were going to load it was  
13 going to be in Weslaco.

14 Q When -- so who called you to tell you that they  
15 needed you to go to the rest area in Virginia?

16 A Who told me to go to the rest area?

17 Q Yeah.

18 A It was Roy.

19 Q Roy Salinas?

20 A Yeah.

21 Q And what did Roy tell you about why he needed  
22 you to go there?

23 A Okay. I think there's going to be a little  
24 correction on that one.

25 Q Okay.

1           A     The first person who called me that day was  
2     Rudy. He asked me if I was doing something and I told him  
3     that I wasn't. I was at my mom's house and he asked me if  
4     I can make, if I can help Roy with a truck because he was  
5     disabled down in Virginia and I did say, yes, because I  
6     just wanted to get out from Zapata.

7                      Then he told me that person was going to  
8     pick me up was going to be Roy.

9           Q     Okay. So you were at your mom's house?

10          A     Uh-huh.

11          Q     Yes?

12          A     Yes, ma'am.

13          Q     Sorry. Uh-huh's don't translate well for her.

14          A     I'm sorry.

15          Q     It's okay.. Is this during the time you were  
16     separated from Lilly?

17          A     Yes, ma'am.

18          Q     You just wanted to sort of get out of Zapata?

19          A     Yes, ma'am.

20          Q     Stop thinking about it?

21          A     Uh-huh.

22                      MR. HEARN: Is that a yes?

23                      THE WITNESS: Yes, ma'am.

24          Q     (By Ms. White) So Rudy calls you and says Roy is  
25     broken down?

1 A Yes, ma'am.

2 Q And does he tell you at that time that he's at a  
3 rest area?

4 A No, ma'am.

5 Q Just that he's in Virginia?

6 A Yes, he was in Virginia.

7 Q Did he tell you what specific tractor had broken  
8 down?

9 A No, ma'am.

10 Q Did he explain to you how -- did he explain to  
11 you it was a Salinas Express tractor?

12 A Yes, ma'am.

13 Q And did he tell you how that Salinas Express  
14 tractor came to be in Virginia?

15 A They were making a trip, but I don't know what  
16 happened to the truck. They couldn't be able to run  
17 anymore. They had to stop and leave the truck down at the  
18 rest area.

19 Q And when you say they were making a trip, who  
20 was making a trip?

21 A Eddie and it was, well, it was Roy and it was  
22 Eddie, Eddie Lozano.

23 Q Eddie was driving a separate truck?

24 A Yes, ma'am.

25 Q Do you know where they were going?

1 A No, ma'am.

2 Q Do you know what they were hauling?

3 A No, ma'am.

4 Q And so what did you do when Rudy called you?

5 A He just asked me if I would be able to go and  
6 help him out because they were kind of tired, they were  
7 barely coming down from a trip and they needed somebody  
8 else help them drive.

9 Q So Eddie and Roy had come back to Zapata?

10 A They got back to Laredo to make, to deliver one  
11 of the loads.

12 Q So they delivered a load to Laredo.

13 A Yes, ma'am.

14 Q And did they come back in Eddie's tractor?

15 A The -- Roy came over to my house and picked me  
16 up on the personal truck.

17 Q Okay. Do you know how Eddie and Roy had gotten  
18 back to Laredo?

19 A On their truck, on Eddie's truck.

20 Q On Eddie's truck?

21 A Yes, ma'am.

22 Q Okay. And so then Roy came over to your house?

23 A Rudy told me that Roy was going to call me to  
24 see where I was at and he was going to pick me up.

25 Q All these calls, are they taking place on your

1      cell phone?

2            A      Yes, ma'am.

3            Q      What was that phone number?

4            A      I used to have 489-3162.

5            Q      What was the area code?

6            A      956.

7            Q      Is that AT&T?

8            A      Yes, ma'am.

9            Q      So Rudy tells you Roy is going to go pick you  
10 up, and does Roy go pick you up?

11          A      Yes, ma'am.

12          Q      In his personal truck?

13          A      In his personal truck.

14          Q      And where did you guys go from there?

15          A      We just took off to the Salinas yard. We waited  
16 there for almost -- for a couple of minutes until Eddie  
17 arrived. From there I just took off with Eddie to the  
18 Valley. We went to McAllen.

19          Q      So you and Eddie went to McAllen?

20          A      Yes, ma'am.

21          Q      Where did you guys go?

22          A      We were supposed to go to SMC yard to go and  
23 pick up another truck that, that they were going to lend  
24 us to bring the other truck over.

25          Q      Had you ever been to the SMC yard before?

1 A No, ma'am.

2 Q Who told you that -- where you guys were going?

3 A I think Eddie, he already knew where we were  
4 going to be going to.

5 Q And did Eddie say, SMC is going to lend us the  
6 truck?

7 A No. The person who say that, told me that I  
8 think -- well, it was Roy, that we were going to pick up a  
9 truck but they didn't say nothing they were going to lend  
10 us a truck. Nothing like that. Just going to pick up a  
11 truck.

12 Q So Roy said that SMC was going to lend you a  
13 truck?

14 MR. DUNN: Object to the form.

15 Q (By Mr. State-Plaintiff) Did Roy say SMC was  
16 going to lend you a truck?

17 A He just told us there was some, they were going  
18 to lend us a truck, but didn't know who was it until we  
19 got there.

20 Q And do you know Sergio Cuellar?

21 A We met him there in McAllen.

22 Q Had you ever met him before?

23 A No, ma'am.

24 Q Is he Roy and Rudy's cousin?

25 A Yes, ma'am.

1 Q But he's not your cousin?

2 A No, ma'am.

3 Q So you met him in McAllen?

4 A Yes, ma'am.

5 Q Where did you guys meet?

6 A We were going, supposed to go to his yard but  
7 like that day it was kind of heavy raining, it was  
8 flooded. We couldn't be able to exit. We just had to  
9 call him. I think Eddie called Roy and told him that we  
10 were going to go straight to the truck stop, that we were  
11 going to meet over there.

12 Q Do you know what day this was?

13 A (Nods head.)

14 Q And did you in fact meet Mr. Cuellar?

15 A What happened, he wasn't there. We were having  
16 trouble hooking up Eddie truck down to the SMC truck  
17 because we didn't have no experience using the wench that  
18 they had.

19 Q Okay. So but how did -- where did you pick up  
20 the SMC truck?

21 A On the truck stop.

22 Q And how did it get there?

23 A Roy took it. He was already -- what happened,  
24 he left from his own truck down to the Weslaco and I took  
25 off with Eddie. He got there faster than we did. Well,

1 first.

2 Q So Roy went to the SMC yard?

3 A Yes, ma'am.

4 Q And picked up his truck to borrow?

5 A Yes, ma'am.

6 Q Do you know --

7 MR. DUNN: I'm going to object to that.

8 Foundation hasn't been laid for that.

9 Q (By Ms. White) Did Roy tell you how he got the  
10 keys to the truck?

11 A No, ma'am.

12 Q Did he ever indicate to you that Sergio Cuellar  
13 had given him the keys to the truck?

14 A I think he never told me nothing but I think he  
15 did because like I was saying, we were having trouble  
16 hooking up the other truck and we had to call him. We  
17 called him and he just went over to and us.

18 Q So he did show up?

19 A Yeah, he did.

20 MR. DUNN: I'm going to object to the  
21 response. Nonresponsive to the question. Foundation  
22 hasn't been laid for the testimony.

23 Q (By Ms. White) So did you in fact in McAllen ever  
24 meet Sergio Cuellar?

25 A Yes, ma'am.